

ETHICS IN NEGOTIATIONS

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Summary: Probably because of the egoism and the divergence of interests, people are forced to fight for their corner. It is happening on different plains of the social life, beginning with family, through colleagues' relation, friendship relation and social as well to finish with professional. Therefore it can be said that the negotiations are an indispensable part of our lives. In organizational disputes, managers negotiate conditions of cooperation with other business entities, employees establish the amount of their wages with the employer, circle the scope of their duties and responsibilities and etc. The interests of individuals or social and professional groups are often represented by the third party (i.e. the negotiators) such as organizations as well as trade unions representatives. Negotiation skills are crucial for establishing business contacts, make new collaborations or maintain already taken business relations. In practice, the art of negotiation uses a wide range of techniques to help negotiators to achieve the intended purpose. However, some of these techniques raise ethical questions. The premise of this paper is not willingness of a negative assessment of the strategies adopted by the negotiators, but to show that perspective of the objective of the organization existence is not only to maximize profits for the company owner but social responsibility (ethics) as well. Moral dilemmas and unethical choices which negotiators faced often carry implications acting destructively both in relation to the company's environment (e.g. contractors, collaborators) for further relationship with the deceived person or subject of negotiations, as well as in relation to the image and conscience of unfair negotiators.

Keywords: manager, ethics, negotiation

1. Characteristics of the term and areas of negotiation ethics

Negotiations are nowadays a very common practice, concerning all the people and all aspects of social life. We constantly need something that belongs to somebody else, or we compete about something.

Negotiation is “ a two-side process of communication, the aim of which is to achieve an agreement, when at least some of the interests of people involved are confrontational” (Fisher et al. 1990). The starting point for negotiations is always conflict, which is „ perceived as the clash of different, but interdependent interests” (Mastenbroek 1998). Therefore, the interdependence of interests (at least one common goal) (Zbiegień-Maciąg 2003) is the basis for negotiations. They aim to find compromise, thanks to which the interests of both sides could be realized, without harm for any of the parties, with simultaneous maximization of profits earned from this cooperation.

Focusing on moral issues connected with negotiations, are the basis for extracting from the area of business ethics a category called negotiation ethics. The assumptions of this sub-discipline include both elements of descriptive ethics and normative ethics, both with reference to description of beliefs and moral behaviours of people as well as stating, what is good and what is wrong in negotiations. (Kamiński 2007)

The main areas of interests in case of ethics are: process ethics (I – preparatory stage, II – the essential stage, III – the final stage); ethics of division, ethics of representation, ethics of representation, ethics of intervention. (Kamiński 2003)

Process ethics is focused on the negotiation flow in various stages: preparatory, essential and final stages.

In the preparatory stage it is common to have contact with moral aspects right while skating the goals. It is possible to endeavor to reach somebody's own goals, or take into account the interest of the other party. Moral aspects in this stage are i. a. the way of getting and using information about the company, negotiators and company surroundings. Moreover, the discussed stage is for preparing of the climate for negotiations, that would influence both parties of negotiation. (Kałużna-Drewińska 2006)

In the Essential stage the most important aspects are the following ethical issues: beginning of the proceedings and preparing of the first offer, a type and way of making concessions, order of discussed problems, discussion, type of the questions asked, manipulation of information, using the techniques of influencing others, formulating and signing of a contract. What brings the ethical doubts in the discussed stage of negotiations is the aspect of choosing the correct tactics.

Ethics of the final stage is connected with evaluation of an effect of the negotiation and monitoring of the contract realization.

Ethics of division – stating, whether the result of negotiations is fair, and to which assessment criteria it should undergo.

Ethics of representation – originates from the fact of representation of a party in a negotiation process, e. g. by the agents, lawyers, trainers, psychologists, etc and resulting problems of moral nature on the line: negotiator- represented person.

Ethics of intervention – is focused on the analysis of the norms and rules of behaviour of a mediator, a person that is asked by the negotiating parties for help, when they cannot communicate.

2. Symptoms of immoral behaviours in negotiations – manipulation and lie

Ethics of negotiation is focused on various areas, one of the key of them is identification of the symptoms of non-ethical behaviours in a negotiation process. Next, in this process ethics of tactics is extracted (problem of manipulating of people and information) and the area called conventionally ethics of false statements (problem of lie). Negotiation tactics aim is to focus our attention to the fact that apart from cooperation and setting goals, apart from tactics cooperation- oriented, there also the ways often using cheating. Therefore, under the above mentioned areas, ethics will be focused on grouping the tactics and statements with similar bases, and next their moral assessment.

Manipulation is „a group of psychological, propaganda, organizational activities (...), calculated on effecting particular social and individual behaviours” (Reimus 2005, p. 65). It is possible to manipulate people or information, as manipulator's aim is to establish the most profitable contract.

In the literature of a given subject there functions many divisions of the manipulation tactics while negotiating, often very extender. (E. g. <http://katarzynaksiazkiewicz.pl/manipulacja-przewodnik-po-technikach-manipulacyjnych-2/>)

Nevertheless, because of the ethical character of the following article, the focus was placed only on the selected examples.

Among the most unpleasant and standing beyond the law tricks and ethically dubious tactics we may distinguish:

1. The use of gifts, parties and other kind of „bribes” in order to „soften” the position of the other person;
2. Using a group of „spies” in order to get some special information concerning plans of the other party, mainly concerning established in the point of resistance.
3. Undermining the credibility of a negotiator in front of the board members of his company by using various types of lies;
4. Using various forms of electronic monitoring and heating (the office of the negotiator, of changing the meetings of the board of directors);
5. Stealing the documents belonging to the opponent, or gaining information from the spys;

Discreditation or diminishing of the opponents by using public slanders, etc.

(<http://conradinstitute.org/index.php/rola-prawa-i-etyki-w-prowadzeniu-negocjacji/>)

Other division of the manipulation tactics will be the one because of:

1. Pressure tactics, which is movements and behaviors, the aim of which is to cause that only one party gives up;
2. Diversion tactics, that are based on the belief, that the negotiator acts according his good belief;
3. Tactics of the psychological war, aiming to cause that the other party of negotiations feels uncomfortably (e.g. too loud, too cold, lack of possibility of consultation, verbal and non-verbal communication causing that the other person feels sorry, and threat), by means of what will be more prone to concession, because its aim is to finish the negotiations as soon as possible. (Fisher et al. 1990)

Only on the basis of the two above mentioned divisions of manipulation tactics it may be concluded that the subject includes many various behaviours, which means from extremely immoral, according to the rule „after corpses for purpose”, or „purpose sanctifies means”, to the less drastic. It is not possible to have them morally assessed according the same criterion (it is, if the observer is a Kantian).

A lie has different form in a process of negotiation. The most common division is the one that distinguishes:

- not full showing the position, which means hiding the point to which the negotiator aims (usually claims, that he would like to achieve more, in order to get what he wants);
- lie, based on cheating being an effect of signaling intentions of taking a specific action, although in fact it is not true;
- falsification, refers to the purposeful activities of a negotiator, thanks to which by means of a set of real and unreal arguments lead the other party to false conclusions;
- cheating, is the least sophisticated, among all the forms of lies, based on introducing to negotiations mistaken, false information in order to destroy decisive process of the other party of negotiations.

Ethicists highlight not to confused the above mentioned forms of lies with selective expressing information represented by the parties about the flow of negotiations, because it belongs to the art of negotiating.

3. Ethical negotiations

Recently, in the environment of the specialists from the area of negotiations there is more popular point of view that effective negotiator is an ethical negotiator. Nevertheless such a general expression needs to be specified, what is meant by using the word “ethical”. The negotiators use in their work various types of tactics and techniques that are not always in accordance with the ethical rules. Using i. a. lies, inflating the price, illegal tricks, caused that discussed professional group does not have even good opinion. According to the common

opinion there functions a stereotype that negotiator is a person you cannot trust and that is why that person should be constantly carefully observed and listened. Negotiator, in order to be considered as ethical, has to meet several conditions:

- respect your partner,
- reliability – clear intentions for co-workers and the other party, - well-understanding among the members of negotiation teams,
- responsibility for words,
- equal right to the utterance – there should be given to the partner the possibility to present his own point of view,
- reciprocity in a process of negotiation – when one party resigns, the second party should lower its claims proportionally (if possible),
- so called „good manners”– it may be helpful to use diplomatic protocol, as well as ethical code (Rosińska 2007)

Moreover, negotiator meeting the above mentioned conditions, has the ability to use many techniques that may be used while performing his professional duties. Not all of them are ethically recommended, what should be also taken into account while assessing ethically the work of negotiators.

It should be also taken into account that ethical negotiations should aim to make the agreement probable at the level – the won- the won. Many negotiators make a mistake focusing on the essential aspect of a discussion, removing to the second plan the procedure of resolving the conflict itself. (Fisher et al. 1990) Correctly organized procedure should be composed of several stages: defining of a problem, looking for an alternative solution and choosing of the best solution. [According to the number of stages the authors are agreed: In terms of the number of stages, the researchers are not unanimous: compare D. Dana, *Rozwiązywanie konfliktów*, PWE, Warszawa 1993 (4 stages/steps); and *Negocjowanie metodą interesów*, J.P. Gieorgicy [ed.], Centrum Partnerstwa Społecznego Dialog, Warszawa 1997 (6 stages); lub B. Scott, *Negocjowanie*, [in:] *Praktyka kierowania*, D.M. Stewart, PWE, Warszawa 1994 (7 stages)]

The next ethically important aspect of negotiations is taking into consideration some of the universal rules of choosing the fair solution:

- input of work – a party that brings greater work input to the same enterprises, receives greater part of the earned profits;
- equality – parties share profits equally, the input is not meaningful, - correspondence to the needs – fair division is the one that takes into account reasonable needs,
- correspondence to the chances – division according to the use that it may be of for the parties; - precedent – the basis of the agreement are solutions from the past (with a given, or different partner) (Rządca, Wujec 1998)

R.J. Lewicki and J.A. Litterer suggests that a process of ethical negotiations should be encouraged by the following verbal tactics: (Fisher et al. 1990)

Following these rules allows to stay in control over the flow of negotiations. By leading to the state of lowering the level of emotions and objectivisation of a conflict and transferring the problems to the substantive ground, the negotiators are able to realize activities aiming to the acceptance of a solution that is optimal for both parties.

Table 2: The basic tactics supporting process of ethical negotiations

Phrases	Rules
Please, correct me, if I am wrong.	Verify the facts in a way that both of the parties agree with them.
We appreciate, what you have done for us.	Separate people from the problem. Help the other party, even if you have critical attitude towards his offers.
Honesty is important for us.	Make the negotiations based on the rules.
We would like to resolve this conflict on the basis of the rules, not selfish interests and strength.	Protect your own opinion, going back to the rules, even if the second party tries to bring them to the private ground.
May I ask you some questions in order to check, whether obtained information is true?	Ask questions, do not make reservations.
Which rule is the basis for your action?	Discover the rules being the basis of the activities of the other party.
Let me check if I understand properly what you have told.	<i>Listen actively.</i>
Let me come back to this conversation later.	Make an evaluation of your position over the sphere of negotiations. Verify the facts, present considered opinions, consult your suggestions with the people that you represent.
Let me understand the doubts in perceiving some of your arguments.	Present explanation before you express your suggestions.
One of the fair solutions could be based on...	Present your suggestions in the context of honesty.
If we achieve an agreement... If we do not achieve an agreement...	Present consequences of an agreement, and a lack of agreement.
I would be pleased if we accept the solution the most comfortable for you.	Let the other party feel that he has the possibility to influence the final agreement.
It would be nice to cooperate with you.	Finish the negotiations with a friendly tone.

Source: R.J. Lewicki i J.A. Litterer, *Negotiation*, IRWIN, Illinois 1985, p. 126, elaboration on the basis of R. Fisher, W. Ury, B. Patton, *Getting to Yes...*, s. 117-128 (in Polish edition p. 167-178).

4. Conclusion

Negotiation is an art of obtaining compromise, otherwise the notion of dictate would be considered. Negotiations may be difficult, long-lasting and arduous, but its effect sometimes may be impossible to be underestimated, e. g. avoiding, or abandonment of war in case of international conflicts. Nevertheless, not everyone is allowed to have the honor to negotiate, there are known some examples of the countries' Policy „zero tolerance for terrorism”, in which any concessions towards members of such groups are not accepted (similar in case of e. g. traitors). Therefore, at the beginning of negotiations some of the potential negotiators are excluded, as considered to be unreliable.

In practice, it would be difficult to find negotiations without manipulations (since ancient times the „ally” of manipulation was the art. of rhetoric), and if we have contact with this phenomenon, negotiations are considered as unprofessional.

How to evaluate moral art of negotiation based on manipulation, various tricks and techniques, if it uses various forms of lies? This question cannot be clearly answered. It would be dependent on the individual, historical and cultural factors. One thing that could be undoubtedly stated is that most of negotiations, regardless the fact whether it is business negotiation, or connected with establishing collective agreement in the times of privatization, or with the trade unions, or national administration, etc. Regardless the fact that the same, sometimes morally ambiguous tactics, it needs to the compromise learning profit for both sides. Arguments, that something is good, because it brings positive effects, undoubtedly caused indignation of many ethics, e. g. giving birth of a healthy baby does not justify rape. According to that, the education in the area of negotiations should be more developed and fight against stereotypes, in order to have the negotiators to perceive profits and satisfaction from the ethical way of negotiations.

References

1. D. Dana (1993): *Rozwiązywanie konfliktów*, PWE, Warszawa.
2. Fisher R., Ury W., Patton B. (1990): *Dochodząc do Tak. Negocjacje bez poddawania się*, PEW, Warszawa.
3. Gieorgicy J.P. [ed.] (1997), *Negocjowanie metodą interesów*, Centrum Partnerstwa Społecznego Dialog, Warszawa.
4. <http://conradinstitute.org/index.php/rola-prawa-i-etyki-w-prowadzeniu-negocjacji/>
5. <http://katarzynaksiazkiewicz.pl/manipulacja-przewodnik-po-technikach-manipulacyjnych-2/>
6. Kałużna-Drewnińska U. (2006): *Negocjacje w biznesie. Kluczowe problemy*, Wyd. Akademii Ekonomicznej im. Oskara Langego we Wrocławiu, Wrocław.
7. Kamiński J. (2007), *Negocjowanie. Techniki rozwiązywania konfliktów*, Wyd. Polontex, Warszawa.
8. L. Zbiegień-Maciąg (2003): *Taktyki i techniki negocjacyjne*, Wyd. AGH, Kraków.
9. Lewicki i R.J., Litterer J.A. (1985): *Negotiation*, IRWIN, Illinois.
10. Mastenbroek W. (1998): *Negocjowanie*, PWN, Warszawa.
11. Reimus T. (2005): *Manipulacje w negocjacjach*, [in:] *Dni Negocjacji II*, D. Ogrodnik [ed.], Rebis, Poznań.
12. Rosińska A., *Wizerunek polskiego negocjatora w dobie integracji z Unią Europejską*, p. 82, [in:] http://www.institut.info/images/stories/ksiazki_polecane/16_przemiany_i_perspektywy_przedsiębiorstw_2/r07.pdf
13. Rządca R. A., Wujec P. (1998): *Negocjacje*, PWE, Warszawa.
14. Scott B. (1994): *Negocjowanie*, [w:] *Praktyka kierowania*, D.M. Stewart, PWE, Warszawa.